

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

IN RE:	:	
JOSEPH MARTIN THOMAS,	:	Case No. 20-10334-TPA
<i>Debtor</i>	:	
	:	Chapter 11
MacDONALD, ILLIG, JONES	:	
and BRITTON, LLP,	:	Related to Doc. No. 204
<i>Movant</i>	:	
	:	
v.	:	
	:	
NO RESPONDENT	:	

ORDER

Movant MacDonald, Illig, Jones and Britton, LLP (“MIJB”) was appointed as special counsel for the Debtor by order dated July 8, 2020, Doc. No. 133, relating back to the date of the petition. MIJB filed an *Application of Special Counsel for the Debtor for Interim Compensation of Attorneys’ Fees and Reimbursement of Expenses* (“Fee Application”) at Doc. No. 84 on October 21, 2020, seeking total fees \$81,563.50 and expenses of \$232.33 for the period from May 6, 2020 through August 31, 2020. The *Fee Application* breaks down the requested fees into four broad categories: global sale/employment opportunities/business operations (\$55,296), litigation matters (\$22,453), licensing matters (\$3,039.50), and LECOM project (\$775).

A *Limited Objection* to the *Fee Application* was filed by the Official Creditors’ Committee (“Committee”) for the companion case of Tri-State Pain Institute, LLC, (“Tri-State”) Case No. 20-10049-TPA. See, Doc. No. 210. In the *Limited Objection* the Committee states that it does not oppose the requested fees in the litigation, licensing and LECOM project categories, but it does object to the fees sought in the global sale/employment opportunities/business operations

category. Broadly speaking, the *Limited Objection* rests on the grounds that the services provided were beyond the scope of what MIJB was authorized to provide, were in part performed for non-Debtor entities, and are excessive. At the hearing on the *Fee Application* the Committee further argued that the legal services did not provide a benefit to the estate.

MIJB and the Debtor countered at the hearing by arguing that the services which MIJB provided were of benefit to the estate, and that if MIJB had not performed the services they would have had to be performed by other attorneys in the firm of Debtor's counsel because they involved matters outside the bankruptcy expertise of Debtor's counsel, which matters were important and necessary to the bankruptcy case. They additionally argued that the expense would likely have been even higher if attorneys other than MIJB had to perform the services because MIJB had represented the Debtor in these matters prior to the bankruptcy filing, and thus had an existing knowledge base and familiarity with the issues presented whereas a new attorney would have had to devote considerable time to come up to speed. Finally, they argued that even though some of the legal services may have involved entities other than the Debtor, they are all owned by him and are all inextricably intertwined with and affect the Debtor's case.

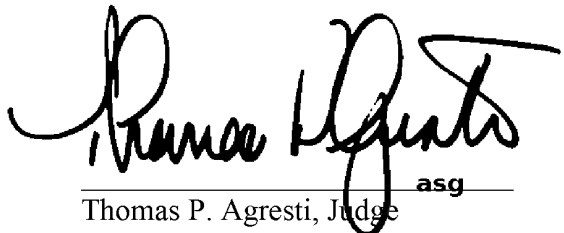
After carefully reviewing the *Fee Application* and the *Limited Objection*, and considering the arguments of Counsel made at the hearing, the Court indicated that it was inclined to grant the *Fee Application* as requested. The Court stated that the services in question do appear to have provided a significant benefit to the estate, noting for example that the settlement of the employment claim of a departing doctor was made on terms that were monetarily very favorable to the Tri-State estate, which ultimately redounded to the benefit of this estate as well, and that MIJB

was instrumental in that result. The Court also agreed that the matters which the Committee objected to were of a specialized nature beyond bankruptcy law and were necessary, such that some other attorneys would have had to perform them if MIJB had not done so. Upon hearing the Court's view, Counsel for the Committee ultimately indicated that he would defer to the Court's conclusion, which the Court takes as a withdrawal of the *Limited Objection*.

The above having been said, the Court must go on to note that the Committee did raise an excellent point in the *Limited Objection* to the effect that total awarded professional fees in this and the Tri-State case already exceed \$400,000—and that even before the approval of the *Fee Application*. Such a rate of accrual of professional fees is not sustainable in these cases. The attorneys at the hearing today explained that all of the difficult legal issues now appear to have been addressed, and that going forward the major activities will be restricted to efforts to liquidate estate assets and address any secured creditor issues related thereto. These are matters well within the competency of bankruptcy counsel that do not seem to present any particularly difficult legal questions, and the Court would therefor anticipate that the need for the services of special counsel will be minimal, and that bankruptcy counsel will be circumspect in the billing of their time. All interested parties are on notice that this is the starting point from which the Court will review any future fee applications filed in this or the Tri-State cases.

AND NOW, this *19th* day of *November, 2020*, upon consideration of the *Fee Application*, and the withdrawal of the *Limited Objection* by the Committee, and for the reasons stated above and on the record at the time of the hearing, it is **ORDERED, ADJUDGED** and

DECREED that the *Fee Application* is **GRANTED** and that MIJB is awarded interim attorney fees in the amount of \$81,563.50 and reimbursement of expenses in the amount of \$232.33, for a total of \$81,795.83. The amounts allowed herein are immediately due and payable so long as payment does not interfere with the successful reorganization of the Debtor.



Thomas P. Agresti, Judge
United States Bankruptcy Court

Case administrator to serve:

Michael Kruszewski, Esq.
Guy Fustine, Esq.
Gary Skiba, Esq.
James McDonald, Jr., Esq.
Michael Romano, Esq.
Norma Hildenbrand, Esq.
Brian Nicholas, Esq.
Salene Kraemer, Esq.
Lauren Michaels, Esq.
Mark Claypool, Esq.
Crystal Thornton-Illar, Esq.

In re:
Joseph Martin Thomas
Debtor(s)

Case No. 20-10334-TPA
Chapter 11

CERTIFICATE OF NOTICE

District/off: 0315-1
Date Rcvd: Nov 20, 2020

User: culy
Form ID: pdf900

Page 1 of 2
Total Noticed: 2

The following symbols are used throughout this certificate:

Symbol	Definition
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+	Addresses marked '+' were corrected by inserting the ZIP, adding the last four digits to complete the zip +4, or replacing an incorrect ZIP. USPS regulations require that automation-compatible mail display the correct ZIP.
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Notice by first class mail was sent to the following persons/entities by the Bankruptcy Noticing Center on Nov 22, 2020:

Recip ID	Recipient Name and Address
+	James F. McDonald, Jr., Esq., MacDonald Illig Jones & Britton, LLP, 100 State Street, Suite 700, Erie, PA 16507-1459
sp	MacDonald, Illig, Jones, & Britton LLP, 100 State Street, Suite 700, Erie, PA 16507-1459

TOTAL: 2

Notice by electronic transmission was sent to the following persons/entities by the Bankruptcy Noticing Center.
Electronic transmission includes sending notices via email (Email/text and Email/PDF), and electronic data interchange (EDI).

NONE

BYPASSED RECIPIENTS

The following addresses were not sent this bankruptcy notice due to an undeliverable address, *duplicate of an address listed above, *P duplicate of a preferred address, or ## out of date forwarding orders with USPS.

NONE

NOTICE CERTIFICATION

I, Joseph Speetjens, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.

Meeting of Creditor Notices only (Official Form 309): Pursuant to Fed .R. Bank. P.2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.

Date: Nov 22, 2020

Signature: /s/Joseph Speetjens

CM/ECF NOTICE OF ELECTRONIC FILING

The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email) system on November 20, 2020 at the address(es) listed below:

Name	Email Address
Brian Nicholas	on behalf of Creditor PNC BANK NATIONAL ASSOCIATION bnicholas@kmlawgroup.com
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Gary V. Skiba	on behalf of Interested Party Tri-State Pain Institute LLC gskiba@marshlaw.com, DGeniesse@marshlaw.com;rose227@hotmail.com
Guy C. Fustine	on behalf of Creditor Official Committee of Unsecured Creditors for Tri-State Pain Institute LLC mwernick@kmglaw.com, knoxbank@hotmail.com,burban@kmglaw.com,amulryan@kmglaw.com
Lauren Michaels	

District/off: 0315-1

User: culy

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Total Noticed: 2

on behalf of Creditor Office of Attorney General Department of Revenue lmichaels@attorneygeneral.gov

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Norma Hildenbrand, on Behalf of the United States Trustee by

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Salene R.M. Kraemer

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TOTAL: 11